IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7684 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No : NO

2. To be referred to the Reporter or not? No :

3. Whether Their Lordships wish to see the fair copy of the judgement? No : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No : NO

5. Whether it is to be circulated to the Civil Judge? No :

HARIBHAI PITAMBER

Versus

GUJ STATE TEXTILE CORPORATION

Appearance:

MR LN MEDIPALLY for Petitioner

MS PJ DAVAWALA, for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 18/02/2000

ORAL JUDGEMENT

By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ or

order directing respondent no.2 to regularise his services on the post of carrier-man.

2. The petitioner was working in Monogram Mills since 1963 in Mechanical and Engineering Department. The Mill was closed on October 14, 1982 and was taken over by the State Government under the Gujarat Closed Texticle Undertakings (Nationalisation) Act, 1986. Thereafter the said Undertaking was transferred to and vested in the Gujarat State Textile Corporation which is impleaded as respondent no.1 in the petition. The case of the petitioner was that initially he was recruited as a helper in the Mechanical and Engineering Department of the Mills in the year 1963 and was thereafter absorbed in service on October 4, 1988 as a carrier-man and was, therefore, entitled to be absorbed on the said post on permanent basis. According to the petitioner, he was threatened on November 16, 1988 that he would be reverted to the post of Helper from November 17, 1988 and, therefore, the above-numbered petition was filed and the relief which is referred to above was claimed.

3. The petition was placed for admission hearing before the Court on November 18, 1988 and following order was passed :-

> "Rule. Interim relief refused. The respondents cannot be directed not to revert the petitioner from the post of carrier-man, the post held by him at present.It cannot be presumed that reversion will be otherwise than in accordance with law. If and when reversion order is passed, it will be open to the petitioner to pray for suitable amendment and challenge the legality and validity of the order of reversion. Since there is prayer with regard to regularisation of services, the matter is admitted. Had the prayer only been with regard to apprehended reversion, the petition might not have been admitted at this stage. The respondents are directed to file affidavit latest before January 31, 1989. Thereafter it will be open to the petitioner to request for final date of hearing."

4. Learned Counsel for the respondents on instructions states that Gujarat State Textile Corporation has been wound-up in view of the order of the High Court and the Mill Company is non-functional, as a result, the petition has become infructuous.

5. The order which was passed by the learned Single

Judge while admitting the matter makes it manifest that the petition was admitted, as there was prayer with regard to regularisation of services of the petitioner. It is not in dispute that the respondent no.1 i.e. Gujarat State Textile Corporation is ordered to be wound-up by the order of the High Court and that the Mill Company, at present, does not function. Under the circumstances, the question of regularisation of service of the petitioner has become infructuous and cannot be considered because of subsequent events. Therefore, the petition having become infructuous deserves to be disposed of accordingly.

For the foregoing reasons, rule is discharged, with no order as to costs. The petition stands disposed of as having become infructuous.

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(patel)